



Redefined Horizons  
3938 Kimball Lane  
Stockton, California 95206

Brown's Boundary Control and Legal  
Principles  
Study Notes By Landon Blake  
Monday, March 16, 2020

## Chapter 2 – Study Notes

### Key Terms

#### **Property Corner**

A corner is the end of a boundary line or the change in the direction (an angle point) of a boundary line.

#### **Controlling Property Corner**

A controlling property corner must be created by the controlling survey and called for in the legal document.

#### **Controlling Survey/Original Survey**

The survey that creates a parcel. Typically a subdivision map in our modern times.

#### **Retracing Survey**

A survey that retraces a parcel boundary based on prior surveys or on words in a deed. If a parcel was created by deed and has never been surveyed, it a retracing survey of that parcel may be a first survey.

#### **First Survey**

A first survey is the first retracement survey of a parcel that was created by deed and not by a subdivision map.

#### **Boundary Line**

The dividing line between two or more parcels. Boundary lines exist fixed forever where they were created. A boundary line may correspond to a property line if legal principles haven't modified ownership. (A boundary line that corresponds to a natural monument may move with changes in the natural monument.)

#### **Property Line**

The dividing line between two or more land ownerships. Property lines can be moved by legal principles of estoppel, boundary by agreement, and adverse possession.



## Key Concepts

### Original Property Corners and Monuments Control

- An original property corner is created on a controlling survey or original survey. An original property corner control the location of the boundary.
- Monuments are physical manifestations of a corner.
- An original property corner doesn't have to be marked by a physical monument to control.
- Natural monuments are things like streams, rivers, mountain ridges, toes of slopes, roads and trees.
- Artificial monuments are objects placed by humans to mark a property corner location. These are things like mounds of stone, wood posts, pipes, metal rods, nails, and piles of charcoal.
- Natural monuments tend to control over artificial monuments in the event of a conflict, because natural monuments are easier to identify and less likely to be destroyed.
- Natural monuments can be "fuzzy".
- Objects marked at the time of the survey become the location and identification of the boundary line (for example: bearing trees).

### Boundary Lines and Property Lines Aren't The Same Thing

- A boundary line is the dividing line between survey parcels or deed parcels. (Used by deed stakers.) Boundary lines can be curves too.
- A property line is the dividing line between parcels of land ownership.
- Property lines don't always correspond to boundary lines. Property lines can change from boundary lines through the legal principles of estoppel, agreement and adverse possession.

### There Are Four (4) Ways To Create Boundaries

- 1) A boundary can be created by action. This includes running lines on the ground, setting monuments, recording field notes, and drawing maps. These actions don't necessarily have to be performed by a land surveyor.
- 2) A boundary can be created by words. This typically means describing the new parcel by words in a deed without the benefit of an on the ground survey for survey map.
- 3) A boundary can be created by statute. These are laws based by governments to survey and create boundaries. (The Public Land Survey System in the United States is an example.)
- 4) A boundary can be created under the powers of common law. There are specific legal requirements that must be met. Some of these are in statute. (Most of these subdivisions in modern times are illegal. Good faith purchasers of parcels from an illegal subdivision may have a legal mechanism to make their parcels legally valid.)



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### **Other Principles Related To The Creation And Retracement Of Boundaries**

- Land owners can create boundaries in any manner that isn't illegal. In the common law, there is no requirement for a survey to create boundaries. (Creating a boundary without a survey is way mucho bad.)
- Once property rights have been granted in reference to a boundary line, that boundary line can't be modified (except with mutual agreement of the parties).
- The original surveyor creates boundaries. He doesn't "ascertain them". The retracing surveyor doesn't create boundaries, he "ascertains" their location from the available evidence.
- The original boundaries are without error and are the exact dimensions as indicated by the creating surveyor. (Except for junior/senior rights, ambiguous terms/conflicting terms, evidence of intent, and differences in measuring capabilities.) Quote: "The retracing surveyor should realize that modern methods of measurement will not duplicate the original measurements that created the original boundary."
- Surveyors should retrace boundaries in the units of the original survey (and considering the methods used in the original survey). Quote: "Differences...(between the original and retracing surveys) do occur because of the different methods and equipment used in obtaining the original measurements and subsequent measurements, as well as differences among the people who did the work and changes in the circumstances or conditions under which it was done."
- A boundary line can't be modified by a land surveyor or judge as part of a retracement survey. (There are ways to modify a boundary. A retracement survey isn't one of them. You need agreement of the parties on each side of the boundary line.)

### **Extra Bit: Be Careful With Attorneys**

- "In order to understand...boundaries, one must be able to make a distinction between corners, monuments, property lines, and boundary lines. All of these are different and should be addressed differently by the surveyor who creates them and the surveyor who retraces them. Unfortunately, these will probably be misunderstood by attorneys and the courts."
- "In the founding days of our country, many of the early lawyers and judges were also schooled in surveying, title examination, and land principles. Today this cannot be said of many of the younger professionals. Not to detract from their capabilities, but today many young professionals have not been schooled in basic land principles...they lack a basic land ethic."



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## Unanswered Questions and Things Left Unsaid

**Why would a property corner not be marked by a monument?**

- Landon's answer goes here.

**Why would a property corner be marked by more than one monument?**

- Landon's answer goes here.

**What happens when a land surveyor sets monuments a boundary line that no longer corresponds to a property line?**

- Landon's answer goes here.